

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Release of Maintenance Agreement and Letter of Credit for Estates at
Wekiva Park Phase 1

DEPARTMENT: Environmental Services **DIVISION:** Business Office

AUTHORIZED BY:  **CONTACT:**  **EXT.** 2148
David Gregory, Acting Director **Bob Briggs, Finance Manager**

Agenda Date 08/09/05 **Regular** ☐ **Consent** ☒ **Work Session** ☐ **Briefing** ☐
Public Hearing – 1:30 ☐ **Public Hearing – 7:00** ☐

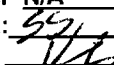
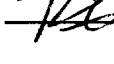
MOTION/RECOMMENDATION:

Approve release of original Water and Sewer Maintenance Agreement with Letter of Credit (it has been replaced with new Agreement and Letter of Credit).

BACKGROUND:

Due to the closing of Homevest LLC, the above-referenced Maintenance Agreement with Letter of Credit has been replaced. Once the original has been released the new Agreement and Letter of Credit, currently at County Records, will be recorded.

Release Maintenance Agreement with Letter of Credit #P000598 in the amount of \$70,500.00 for water and sewer which was accepted by submission into County Records Memorandum dated March 26, 2004 for the project known as Estates at Wekiva Phase 1. District 5 - Carey

Reviewed by:
Co Atty: N/A
DFS N/A
Other N/A
DCM: 
CM: 
File No. CESA02

SUBDIVISION AND SITE PLAN

MAINTENANCE AGREEMENT
(Water and Sewer Improvements)

THIS AGREEMENT is made and entered into this 26th day of March, 2004, between HOMVEST L.L.C., hereinafter referred to as "PRINCIPAL," and SEMINOLE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY."

W I T N E S S E T H:

WHEREAS, PRINCIPAL has constructed certain water and sewer improvements, including water lines, sewer lines, lift stations and other appurtenances in that certain subdivision described as SEAN @ LUKIA PARK, a Plat of which is recorded in Plat Book 63 Pages 6-12, Public Records of Seminole County, Florida; and

WHEREAS, the aforesaid water and sewer improvements were made pursuant to certain plans and specifications dated 2-18, 2003, (as subsequently revised or amended) and filed with the Utilities Manager of Seminole County; and

WHEREAS, PRINCIPAL is obligated to protect the COUNTY against any defects resulting from faulty materials or workmanship of said road improvements and to maintain said water and sewer improvements for a period of two (2) years from March 26, 2004; and

WHEREAS, to guarantee performance of said obligations by PRINCIPAL, PRINCIPAL has obtained and furnished to the COUNTY, a certain Irrevocable Letter of Credit No. PCC0598 issued by SUNTRUST, in the sum of SEVENTY THOUSAND FIVE HUNDRED DOLLARS (\$ 70,500).

NOW THEREFORE, the COUNTY agrees to accept the water and sewer improvements into the County Utility System upon execution of this Agreement and to accept an Irrevocable Letter of Credit as security for the maintenance obligation of the PRINCIPAL.

PRINCIPAL, its heirs, executors, successors and assigns, jointly and severally agrees to be held and firmly bound to the COUNTY in the sum of SEVENTY THOUSAND FIVE HUNDRED DOLLARS DOLLARS (\$ 70,500) on the condition that, if PRINCIPAL shall promptly and faithfully protect the COUNTY against any defects resulting from faulty materials or workmanship of the aforesaid water and sewer improvements and maintain said water and sewer improvements for a period of two (2) years from March 26, 2004, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

The Utilities Manager shall notify the PRINCIPAL in writing of any defect for which the PRINCIPAL is responsible and shall specify in said notice a reasonable period of time within which PRINCIPAL shall have to correct said defect.

Should the PRINCIPAL fail or refuse to perform or correct said defects within the time specified, the COUNTY shall be authorized, but shall not be obligated, to take over and perform, or cause to be performed, such work as shall be necessary to correct such defects, and shall be authorized to draw upon the Letter of Credit to pay the cost thereof, including, but not limited to, engineering, legal and contingent costs. Further, the COUNTY, in view of the public interest, health, safety, welfare and other factors involved, and the consideration in approving and filing the said Plat shall have the right to resort to any and all legal remedies against the PRINCIPAL, both at law and in equity, including specifically, specific performance, to which the PRINCIPAL unconditionally agrees.

The PRINCIPAL further agrees that the COUNTY, at its option, shall have the right to correct said defects resulting from faulty materials or workmanship, or, pursuant to public advertisement and receipt of bids, cause to be corrected any defects or said defects in case the PRINCIPAL shall fail or refuse to do so, and, in the event the COUNTY should exercise and give effect to such right, the PRINCIPAL shall be obligated hereunder to reimburse the COUNTY the total cost thereof, including, but not limited to, engineering, legal and contingent costs, together with any damages, either direct or consequent, which may be sustained on account of the failure of the PRINCIPAL to correct said defects.

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof.

Signed, sealed and delivered
in the presence of:

WALTER BEEMAN

[Signature] John Vranas's

[Signature] Kevin Clark

By:

[Signature] Walter Beeman

Date:

7/10/03

WITNESSES:

Becky Noggle
Laren B. Willoughby

UTILITIES DIVISION
SEMINOLE COUNTY, FLORIDA

Gary Lee Rudolph

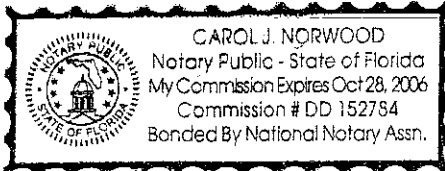
Utilities Manager

Date: 3/16/04

Within authority delegated by the County Manager pursuant to Resolution No. 97-R-66 adopted March 11, 1997 and further delegated by Memorandum dated March 27, 1997, Re: Streamlining of Development-Related Agenda Items and approved on April 2, 1997.

STATE OF)
COUNTY OF) ss

The foregoing instrument was acknowledged before me this 16 day of MARCH, 2004, by Gary Rudolph, who is personally known to me or who has produced NTA as identification.



F:\USERS\ROGER\FRM\LDCR071
Rev. 05/30/97

Carol J. Norwood
Print Name CAROL J. NORWOOD
Notary Public in and for the County
and State Aforementioned

My commission expires: 10/28/06

SUNTRUST

AMENDMENT DATE: MARCH 23, 2004
LETTER OF CREDIT NUMBER: P000598

APPLICANT:
HOMEVEST L.L.C.
1241 S SEMORAN BLVD
SUITE 185
CASSELBERRY, FL 32707

BENEFICIARY:
SEMINOLE COUNTY UTILITIES
DEPARTMENT
500 W. LAKE MARY BLVD
SANFORD, FL 32773-7499

THIS AMENDMENT IS TO BE CONSIDERED AS PART OF THE ABOVE
MENTIONED CREDIT AND MUST BE ATTACHED THERETO.

AMENDMENT NO. 001

EXPIRATION DATE NOW READS MARCH 17, 2006.

THIS LETTER OF CREDIT SHALL BE DEEMED IN FULL FORCE UNTIL
MARCH 17, 2006 AND WILL AUTOMATICALLY BE EXTENDED FOR A PERIOD
NOT TO EXCEED NINETY (90) DAYS WITHOUT AMENDMENT UNLESS WE
PROVIDE THE SEMINOLE COUNTY UTILITIES DEPARTMENT DIRECTOR WITH
WRITTEN NOTICE OF OUR INTENT TO TERMINATE THE CREDIT HEREIN
EXTENDED, WHICH NOTICE MUST BE PROVIDED AT LEAST THIRTY (30) DAYS
PRIOR TO THE EXPIRATION DATE OF THE ORIGINAL TERM HEREOF OR ANY
RENEWED TERM.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

SINCERELY,
SUNTRUST BANK



AUTHORIZED SIGNATURE
JON CONLEY, VP
MANAGER, STANDBY LETTERS OF CREDIT

SUNTRUST

IRREVOCABLE LETTER OF CREDIT P000598

PAGE 1

LETTER OF CREDIT NUMBER: P000598
ISSUANCE DATE: JUNE 19, 2003

APPLICANT:
HOMEVEST L.L.C.
1241 S SEMDRAM BLVD
SUITE 185
CASSELBERRY, FL 32707

BENEFICIARY:
SEMINOLE COUNTY UTILITIES
DEPARTMENT
500 W. LAKE MARY BLVD
SANFORD, FL 32773-7499

FOR USD 70,500.00
(SEVENTY THOUSAND FIVE HUNDRED 00/100 U.S. DOLLARS)

DATE OF EXPIRATION: JUNE 16, 2005
PLACE OF EXPIRATION: AT OUR COUNTERS

PROJECT NAME: ESTATES AT WEKIVA PARK

WE HEREBY ESTABLISH OUR IRREVOCABLE LETTER OF CREDIT NO. P000598 IN FAVOR OF SEMINOLE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AND AUTHORIZE YOU TO DRAW ON SUNTRUST BANK, 200 S. ORANGE AVENUE, ATTN: STANDBY LETTER OF CREDIT DEPT.-GA-AIL MC3706, ORLANDO, FLORIDA 32801 BY ORDER OF HOMEVEST L.L.C., 1241 S SEMDRAM BLVD., SUITE 185, CASSELBERRY, FL 32707 UP TO BUT NOT EXCEEDING THE AGGREGATE AMOUNT OF SEVENTY THOUSAND FIVE HUNDRED AND 00/100 U.S. DOLLARS (U.S.\$70,500.00) WHICH IS AVAILABLE BY YOUR DRAFT AT SIGHT, WHEN ACCOMPANIED BY THIS LETTER OF CREDIT AND EITHER ONE OF THE FOLLOWING DOCUMENTS:

1. A STATEMENT PURPORTEDLY SIGNED BY THE SEMINOLE COUNTY CHAIRMAN OR AUTHORIZED REPRESENTATIVE STATING: "THE PERFORMANCE OF THE OBLIGATION OF HOMEVEST L.L.C. HAS NOT BEEN COMPLETED YET AND THE LETTER OF CREDIT WILL EXPIRE WITHIN 30 DAYS FROM THE DATE OF THE DRAWING WITHOUT BEING EXTENDED OR REPLACED TO THE COUNTY'S SATISFACTION"; OR
2. A STATEMENT PURPORTEDLY SIGNED BY THE SEMINOLE COUNTY

SUNTRUST

IRREVOCABLE LETTER OF CREDIT P000598

PAGE 12

CHAIRMAN OR AUTHORIZED REPRESENTATIVE STATING:

"SUNTRUST BANK HAS LOST ITS DESIGNATION AS A
"QUALIFIED PUBLIC DEPOSITORY" PURSUANT TO
FLORIDA STATUTES, CHAPTER 280, AND AN ACCEPTABLE
REPLACEMENT LETTER OF CREDIT HAS NOT BEEN RECEIVED"; OR

3. A STATEMENT PURPORTEDLY SIGNED BY THE SEMINOLE COUNTY
CHAIRMAN OR AUTHORIZED REPRESENTATIVE STATING:
"THIS DRAWING IS DUE TO HOMEVEST, L.L.C.'S FAILURE TO
HAVE PROPERLY CONSTRUCTED THE FOLLOWING IMPROVEMENTS:
SEWER AND WATER (HEREINAFTER THE "IMPROVEMENTS") AND
MAINTAIN IMPROVEMENTS FOR A TWO (2) YEAR PERIOD
FOLLOWING ISSUANCE OF A CERTIFICATE OF COMPLETION FOR
SUCH IMPROVEMENTS. SPECIFICALLY, THE STATEMENT SHALL BE
TO THE EFFECT THAT: "THE MATERIALS, WORKMANSHIP,
STRUCTURAL INTEGRITY, FUNCTIONING, AND/OR MAINTENANCE
(MAINTENANCE REQUIRED TO ENSURE PROPER OPERATION) OF THE
IMPROVEMENTS HAS BEEN DETERMINED TO BE UNACCEPTABLE, AND
SUCH CONDITION(S) HAS NOT BEEN CORRECTED DESPITE
NOTIFICATION TO HOMEVEST L.L.C. AND FURTHER STATING
THE SUMS DUE AS A RESULT OF SUCH DEFAULT TO DEERAY
THE ESTIMATED COST OF REPAIRS TO THE IMPROVEMENTS."

A SUM NOT TO EXCEED \$70,500.00 SHALL BE AVAILABLE FOR
PARTIAL DRAW(S) OR FULL DRAW BY YOUR DRAFT(S) AT SIGHT, IF
ACCOMPANIED BY A WRITTEN AFFIDAVIT AS DESCRIBED IN THE
PROCEEDING PARAGRAPH.

THIS LETTER OF CREDIT SHALL BE DEEMED IN FULL FORCE UNTIL
JUNE 16, 2005 AND WILL AUTOMATICALLY BE EXTENDED FOR A PERIOD
NOT TO EXCEED NINETY (90) DAYS WITHOUT AMENDMENT UNLESS WE
PROVIDE THE SEMINOLE COUNTY UTILITIES DEPARTMENT DIRECTOR WITH
WRITTEN NOTICE OF OUR INTENT TO TERMINATE THE CREDIT HEREIN
EXTENDED, WHICH NOTICE MUST BE PROVIDED AT LEAST THIRTY (30) DAYS
PRIOR TO THE EXPIRATION DATE OF THE ORIGINAL TERM HEREOF OR ANY
RENEWED TERM.

DRAFTS MUST BE DRAWN AND NEGOTIATED NOT LATER THAN JUNE 16,
2005. DRAFTS MUST BEAR THE CLAUSE: "DRAWN UNDER LETTER OF
CREDIT NO. P000598 OF SUNTRUST BANK DATED JUNE 19, 2003."

THIS LETTER OF CREDIT SHALL REMAIN IN FULL FORCE AND EFFECT
NOTWITHSTANDING A PARTIAL DRAW OR DRAWS SO LONG AS A SUM REMAINS
TO BE DRAWN OR UNTIL THE LETTER OF CREDIT HAS EXPIRED.

EXCEPT AS OTHERWISE SPECIFICALLY STATED HEREIN, THIS LETTER
OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING, AND
SUCH UNDERTAKING SHALL NOT IN ANY WAY BE MODIFIED, AMENDED, OR

CONTINUED ON NEXT PAGE

SUNTRUST

IRREVOCABLE LETTER OF CREDIT P000598 PAGE 3
AMPLIFIED BY REFERENCE TO ANY DOCUMENT, INSTRUMENT, OR AGREEMENT
REFERENCED TO HEREIN OR IN WHICH THIS LETTER OF CREDIT IS
REFERRED TO OR THIS LETTER OF CREDIT RELATES, AND ANY SUCH
REFERENCE SHALL NOT BE DEEMED TO INCORPORATE HEREIN BY REFERENCE
ANY DOCUMENT, INSTRUMENT, OR AGREEMENT.

WE HEREBY AGREE WITH YOU THAT ALL DRAFTS DRAWN IN
COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY
HONORED UPON PRESENTATION AND DELIVERY OF THE DOCUMENTS SPECIFIED
ABOVE TO SUNTRUST BANK, 200 S. ORANGE AVENUE, ATTN: INTERNATIONAL
DEPARTMENT-GA-ATL-MC3706, ORLANDO, FLORIDA, 32801
ON OR BEFORE JUNE 16, 2005, OR ANY EXTENDED DATE.

THIS LETTER OF CREDIT WILL BE CONSIDERED AS CANCELED
UPON RECEIPT BY US OF THE ORIGINAL CREDIT INSTRUMENT OR UPON
ANY PRESENT OR FUTURE EXPIRY DATE HEREUNDER, WHICHEVER SHALL
OCCUR FIRST.

THIS LETTER OF CREDIT IS SUBJECT TO THE "UNIFORM CUSTOMS
AND PRACTICE FOR DOCUMENTARY CREDITS" 1993 REVISION,
INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 500 AND TO
PROVISIONS OF FLORIDA LAW. IF A CONFLICT BETWEEN THE "UNIFORM
CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS" AND FLORIDA LAW
SHOULD ARISE, FLORIDA LAW SHALL PREVAIL. IF A CONFLICT BETWEEN
THE LAW OF ANOTHER STATE OR COUNTRY AND FLORIDA LAW SHOULD ARISE
FLORIDA LAW SHALL PREVAIL.

SINCERELY,

SUNTRUST BANK

Jennifer L. Moody
AUTHORIZED SIGNATURE

JENNIFER L. MOODY

VICE PRESIDENT